

AMENDED IN SENATE MARCH 12, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 9

Introduced by Senator Morrow

January 22, 2001

An act to ~~amend Section 739.5 of the Public Utilities Code, relating to utilities, and declaring the urgency thereof, to take effect immediately.~~ *add Article 3.5 (commencing with Section 353.1) to Chapter 2.3 of Part 1 of Division 1 of, and to repeal Sections 353.1, 353.3, 353.5, 353.7, and 353.9 of, the Public Utilities Code, relating to public utilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Morrow. ~~Electric bill: master-meter customers: rate ceiling~~ *Public Utilities Commission: distributed energy resources.*

~~(1) The Public Utilities Act requires every master-meter customer to provide an itemized billing of charges for electricity or gas, or both, to each individual user generally in accordance with the form and content of bills of the corporation to its residential customers.~~

~~The act requires the Public Utilities Commission to establish a ceiling of 6.5¢ per kilowatt hour on the energy component of electric bills for residential, small commercial, and lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000, as prescribed.~~

~~This bill would require the billing to show any undercollection in the current billing cycle due to the ceiling, the total accumulated undercollection to that date, and accumulated interest on the accumulated undercollection, as prescribed, and to be consistent with~~

~~specified accounting procedures. The bill would require a specified notice. Because a violation of the act is a crime, this bill would impose a state-mandated local program by creating a new crime.~~

~~The bill would allow submeter customers to elect to make inapplicable that electricity rate ceiling and to pay the full cost of electricity used plus an amount that equals the simple interest on any unpaid amounts, as specified, if the related master meter customer and all other submeter customers elect to make inapplicable that electricity rate ceiling.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.

This bill would require the commission to require each electrical corporation to modify tariffs so that all customers installing new distributed energy resources, as defined, are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. The bill would require the commission to require each electrical corporation, as part of its distribution planning process, to include nonutility owned distributed energy resources as a possible alternative to investments in its distribution system in order to ensure reliable electric service at the lowest possible cost. The bill would require the commission to require each electrical corporation to adopt standard contract terms, conditions, penalties, and enforcement mechanisms for distributed energy resources units providing distribution reliability services. The bill would require the commission, in establishing the rates under the provisions of the bill, to create a firewall that segregates distribution cost recovery, as described. The bill would require a local publicly owned electric utility, as defined, or a local publicly owned utility otherwise providing electrical service, to

undertake a review of its rates, tariffs, and rules, as prescribed, and to hold at least one noticed public meeting to solicit public comment on the review and any recommended changes. The bill would repeal the above-described provisions as of January 1, 2005.

The bill would require the commission to require each electrical corporation to establish new tariffs on or before January 1, 2005 for customers using distributed energy resources installed on or after June 1, 2005. Tariffs modified under the bill would continue to apply to distributed energy resources installed before June 1, 2005, for 10 years after the date of installation, as specified. The bill would require the commission to prepare and submit to the Legislature, on or before March 1, 2004, a report describing its proposed methodology for determining the new rates and the process by which it will establish those rates.

Because a violation of a requirement of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

Vote: $\frac{2}{3}$ —majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 739.5 of the Public Utilities Code is~~
2 ~~SECTION 1. Article 3.5 (commencing with Section 353.1) is~~
3 ~~added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities~~
4 ~~Code, to read:~~

5
6 *Article 3.5. Distributed Energy Resources*

7
8 *353.1. As used in this article, “distributed energy resources”*
9 *means any electric generation technology installed and*
10 *operational on or after May 1, 2001, located within a single*
11 *facility five megawatts or smaller in aggregate capacity that*
12 *primarily serves nearby electric load, is powered by any fuel other*
13 *than diesel, and meets the State Air Resources Board emission*
14 *standards and guidelines for distributed generation, as defined in*
15 *Sections 41514.9 and 41514.10 of the Health and Safety Code.*
16 *Until standards and guidelines have been adopted by the State Air*
17 *Resources Board, for the purpose of this article, distributed energy*
18 *resources shall meet emissions levels equivalent to ____.*

1 353.3. The commission shall require each electrical
2 corporation to modify tariffs so that all customers installing new
3 distributed energy resources are served under rates, rules, and
4 requirements identical to those of a customer within the same rate
5 schedule that does not use distributed energy resources, and to
6 withdraw any provisions in otherwise applicable tariffs that
7 activate other tariffs, rates, or rules if a customer uses distributed
8 energy resources. Except as specified in Section 353.7, customers
9 may not be subject to the application of additional rates or tariffs
10 solely because of their use of distributed energy resources to serve
11 onsite loads or over-the-fence transactions allowed under
12 Sections 216 and 218.

13 353.5. The commission shall require each electrical
14 corporation, as part of its distribution planning process, to include
15 nonutility owned distributed energy resources as a possible
16 alternative to investments in its distribution system in order to
17 ensure reliable electric service at the lowest possible cost. The
18 commission shall require each electrical corporation to adopt
19 standard contract terms, conditions, penalties, and enforcement
20 mechanisms for distributed energy resources units providing
21 distribution reliability services. The commission shall review for
22 the purpose of compliance with this section, on an annual basis,
23 the progress of each corporation in incorporating these changes
24 into their planning processes.

25 353.7. Nothing in this article may result in any exemption
26 from reasonable interconnection charges, lead to any reduction in
27 contributions by each customer class to public purpose programs
28 funded under Section 399.8, or relieve any customer of any
29 obligation determined by the commission to result from
30 participation in the purchase of power through the Department of
31 Water Resources pursuant to Division 27 (commencing with
32 Section 80000) of the Water Code.

33 353.9. In establishing the rates required under this article, the
34 commission shall create a firewall that segregates distribution cost
35 recovery so that any net costs, taking into account the actual costs
36 and benefits of distributed energy resources, proportional to each
37 customer class, as determined by the commission, resulting from
38 the tariff modifications granted to members of each customer class
39 may be recovered only from that class.



1 353.11. A local publicly owned electric utility, as defined in
2 subdivision (d) of Section 9604, or a local publicly owned utility
3 otherwise providing electrical service, shall review at the earliest
4 practicable date its rates, tariffs, and rules to identify barriers to
5 and determine the appropriate balance of costs and benefits of,
6 distributed energy resources in order to facilitate the installation
7 of these resources in the interests of their customer-owners and the
8 state, and shall hold at least one noticed public meeting to solicit
9 public comment on the review and any recommended changes.
10 However, notwithstanding any other provision of this article, such
11 an entity has the sole authority to undertake such a review and to
12 make modifications to its rates, tariffs, and rules as the governing
13 body of that utility determines to be necessary.

14 353.13. Sections 353.1, 353.3, 353.5, 353.7, and 353.9 shall
15 remain in effect only until January 1, 2005, and as of that date are
16 repealed, unless a later enacted statute, that is enacted before
17 January 1, 2005, deletes or extends that date.

18 353.14. (a) The commission shall require each electrical
19 corporation to establish new tariffs on or before January 1, 2005,
20 for customers using distributed energy resources installed on or
21 after June 1, 2005. Distributed energy resources installed before
22 June 1, 2005, shall be subject to those tariffs in existence pursuant
23 to this article as of December 31, 2004, for a period of 10 years
24 from the date of installation. Those tariffs required pursuant to this
25 section shall ensure that all net distribution costs incurred to serve
26 each customer class, taking into account the actual costs and
27 benefits of distributed energy resources, proportional to each
28 customer class, as determined by the commission, are fully
29 recovered only from that class. The commission shall require each
30 electrical corporation, in establishing those rates, to ensure that
31 customers with similar load profiles within a customer class will,
32 to the extent practicable, be subject to the same utility rates,
33 regardless of their use of distributed energy resources to serve
34 onsite loads or over-the-fence transactions allowed under
35 Sections 216 and 218. Customers with dedicated facilities shall
36 remain responsible for their obligations regarding payment for
37 those facilities.

38 (b) The commission shall prepare and submit to the
39 Legislature, on or before March 1, 2004, a report describing its
40 proposed methodology for determining the new rates and the

1 *process by which it will establish those rates. It is the intent of this*
2 *Legislature that the Legislature will review the report and provide*
3 *direction to the commission on how to proceed within 90 days after*
4 *the date of receiving the report.*

5 *SEC. 2. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*

14 ~~amended to read:~~

15 ~~739.5.—(a) The commission shall require that, whenever gas~~
16 ~~or electric service, or both, is provided by a master-meter customer~~
17 ~~to users who are tenants of a mobilehome park, apartment~~
18 ~~building, or similar residential complex, the master-meter~~
19 ~~customer shall charge each user of the service at the same rate~~
20 ~~which would be applicable if the user were receiving gas or~~
21 ~~electricity, or both, directly from the gas or electrical corporation.~~
22 ~~The commission shall require the corporation furnishing service~~
23 ~~to the master-meter customer to establish uniform rates for~~
24 ~~master-meter service at a level which will provide a sufficient~~
25 ~~differential to cover the reasonable average costs to master-meter~~
26 ~~customers of providing submeter service, except that these costs~~
27 ~~shall not exceed the average cost that the corporation would have~~
28 ~~incurred in providing comparable services directly to the users of~~
29 ~~the service.~~

30 ~~(b) Every master-meter customer of a gas or electrical~~
31 ~~corporation subject to subdivision (a) who, on or after January 1,~~
32 ~~1978, receives any rebate from the corporation shall distribute to,~~
33 ~~or credit to the account of, each current user served by the~~
34 ~~master-meter customer that portion of the rebate which the amount~~
35 ~~of gas or electricity, or both, consumed by the user during the last~~
36 ~~billing period bears to the total amount furnished by the~~
37 ~~corporation to the master-meter customer during that period.~~

38 ~~(c) An electrical or gas corporation furnishing service to a~~
39 ~~master-meter customer shall furnish to each user of the service~~
40 ~~within a submetered system every public safety customer service~~

1 ~~which it provides beyond the meter to its other residential~~
2 ~~customers. The corporation shall furnish a list of those services to~~
3 ~~the master-meter customer who shall post the list in a conspicuous~~
4 ~~place accessible to all users. Every corporation shall provide these~~
5 ~~public safety customer services to each user of electrical or gas~~
6 ~~service under a submetered system without additional charge~~
7 ~~unless the corporation has included the average cost of these~~
8 ~~services in the rate differential provided to the master-meter~~
9 ~~customer on January 1, 1984, in which case the commission shall~~
10 ~~deduct the average cost of providing these public safety customer~~
11 ~~services when approving rate differentials for master-meter~~
12 ~~customers.~~

13 ~~(d) Every master-meter customer is responsible for~~
14 ~~maintenance and repair of its submeter facilities beyond the master~~
15 ~~meter, and nothing in this section requires an electrical or gas~~
16 ~~corporation to make repairs to or perform maintenance on the~~
17 ~~submeter system.~~

18 ~~(e) (1) Every master-meter customer shall provide an itemized~~
19 ~~billing of charges for electricity or gas, or both, to each individual~~
20 ~~user generally in accordance with the form and content of bills of~~
21 ~~the corporation to its residential customers, including, but not~~
22 ~~limited to, the opening and closing readings for the meter, and the~~
23 ~~identification of all rates and quantities attributable to each block~~
24 ~~in the applicable rate structure. The master-meter customer shall~~
25 ~~also post, in a conspicuous place, the applicable prevailing~~
26 ~~residential gas or electrical rate schedule, as published by the~~
27 ~~corporation.~~

28 ~~(2) Each bill shall separately show any undercollection of~~
29 ~~reasonable and prudent costs of providing electric energy to the~~
30 ~~customer unrecovered in the current billing cycle due to the~~
31 ~~application of the ceiling provided for in subdivision (b) of Section~~
32 ~~332.1, the total accumulated undercollection for the period from~~
33 ~~the date of the imposition of the ceiling to the date of the bill, and~~
34 ~~accumulated interest on the accumulated undercollection, which~~
35 ~~shall accrue as simple, fixed interest at a rate not to exceed the~~
36 ~~average interest rate paid by the San Diego Gas and Electric~~
37 ~~Company for loans to finance its purchase of wholesale electricity~~
38 ~~in the previous billing cycle. The billing shall be consistent with~~
39 ~~subdivision (c) of Section 332.1.~~

~~(3) Each bill showing any undercollection pursuant to paragraph (2) shall contain a notice as follows:~~

~~“NOTICE: Payment of this bill, in part or in full, does not affect the legal standing of the ratepayer with regard to any future refund, credit, or other adjustment ordered by a local, state, or federal agency, including, but not limited to, any court order issued pursuant to litigation.”~~

~~(f) The commission shall require that every electrical and gas corporation shall notify each master meter customer of its responsibilities to its users under this section.~~

~~(g) Notwithstanding subdivision (b) of Section 332.1, submeter customers subject to that subdivision may elect, in writing, at least 30 days in advance of the affected billing period, to make inapplicable the electricity rate ceiling established pursuant to that section and to pay the full cost of electricity used plus an amount that equals the simple interest on any unpaid amounts at the rate described in subdivision (e), if the related master meter customer and all other submeter customers elect to make inapplicable that electricity rate ceiling.~~

~~SEC. 2.— No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to modify utility billing practices to provide adequate disclosure to ratepayers of the San Diego Gas and Electric Company of undercollections by that company due to the rate ceiling imposed by Chapter 328 of the Statutes of 2000, and to allow certain ratepayers to elect to make the ceiling inapplicable,~~

1 ~~as soon as possible, it is necessary that this act take effect~~
2 ~~immediately.~~

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